

MAY 16 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellant,

v.

DOROTHY LENORE FLOWERS,

Defendant - Appellee.

No. 06-30464

D.C. No. CR-00-00539-KI

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Oregon
Garr M. King, District Judge, Presiding

Argued and Submitted May 6, 2008
Portland, Oregon

Before: TALLMAN and CLIFTON, Circuit Judge, and KORMAN,^{**} Senior
District Judge.

We consider two factors on appeal in reviewing a criminal defendant's
sentence: whether the district court committed any significant procedural error and
whether the overall sentence was substantively reasonable. *See United States v.*

^{*} This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

^{**} The Honorable Edward R. Korman, Senior United States District
Judge for the Eastern District of New York, sitting by designation.

Carty, __ F.3d __, __, 2008 WL 763770, at *5 (9th Cir. 2008). Because the district court neither committed any significant procedural error nor imposed a substantively unreasonable sentence, the district court did not abuse its discretion in fashioning Dorothy Flowers's sentence. *See id.*

The district court sentenced Flowers to six months home incarceration, six months detention in a community center, and three years supervised release for her role in a conspiracy to defraud the Internal Revenue Service. *See* 18 U.S.C. § 371. Although the district court suggested that the use of technical equipment might satisfy a sophisticated concealment enhancement under U.S.S.G. § 2T1.1, the district court, in declining to apply the two-level enhancement, relied on Flowers's limited education, her overall lack of knowledge of the intricacies of the business, and her tendency to follow instructions without question. We cannot say in light of this isolated statement that the district court, which otherwise correctly calculated the advisory guideline range, committed any *significant* procedural error.

Nor can we conclude that district court's sentence, overall, was substantively unreasonable. The district court appropriately discussed the relevant factors set forth under 18 U.S.C. § 3553(a), and adequately explained unique characteristics that set Flowers apart from her co-defendants: her limited role as a receptionist and secretary, her unwavering devotion to her husband, the mastermind of the

conspiracy, her unquestionable subservience to him, and the limited financial gain she derived from her participation. The sentence was reasonable. These factors, in addition to the district court's stated intention that it would impose the same sentence on remand, persuade us that the district court committed no abuse of discretion.

AFFIRMED.